

# The Gazette of India



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## PART II—Section 2

### Bills and Reports of Select Committees on Bills

#### PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 7th March, 1951:—

BILL\* No. 16 OF 1951

A Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the service of the year ending on the 31st day of March, 1952, for the purposes of railways.

Be it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Appropriation (Railways) No. 2 Act, 1951.

2. **Issue of Rs. 346,28,35,000 out of the Consolidated Fund of India for the year 1951-52.**—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 8 of the Schedule amounting in the aggregate to the sum of three hundred and forty-six crores, twenty-eight lakhs and thirty-five thousand rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1952, in respect of the services relating to railways specified in column 2 of the Schedule.

3. **Appropriation.**—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1952.

\* The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Parliament the introduction and consideration of the Bill.

## SCHEDULE

(See sections 2 and 8)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board . . . . .	30,90,000	..	30,90,000
2	Audit . . . . .	30,84,000	..	30,84,000
• 3	Miscellaneous Expenditure . . . . .	77,84,000	..	77,84,000
4	Working Expenses—Administration . . . . .	24,23,71,000	..	24,23,71,000
5	Working Expenses—Repairs and Main- tenance. . . . .	59,73,49,000	..	59,73,49,000
6	Working Expenses—Operating Staff . . . . .	38,36,16,000	..	38,36,16,000
7	Working Expenses—Operation (Fuel) . . . . .	30,55,20,000	..	30,55,20,000
8	Working Expenses—Operation (other than Staff and Fuel) . . . . .	12,67,04,000	..	12,67,04,000
9	Working Expenses—Miscellaneous Expenses . . . . .	17,79,55,000	..	17,79,55,000
9A	Working Expenses—Labour Welfare . . . . .	3,39,95,000	..	3,39,95,000
10	Payments to Indian States & Companies . . . . .	29,98,000	..	29,98,000
11	Working Expenses—Appropriation to Depre- ciation Fund . . . . .	30,00,00,000	..	30,00,00,000
12 A	Open Line Works (Revenue) Labour Welfare . . . . .	2,28,04,000	..	2,28,04,000
12B	Open Line Works (Revenue) Other than Labour Welfare. . . . .	3,83,31,000	..	3,83,31,000
13	Appropriation to Development Fund . . . . .	10,00,00,000	..	10,00,00,000
14	Appropriation to Revenue Reserve Fund . . . . .	11,84,83,000	..	11,84,83,000
15	Construction of new lines. . . . .	2,61,33,000	..	2,61,33,000
16	Open Line Works—Additions . . . . .	18,18,76,000	..	18,18,76,000
17	Open Line Works—Replacements. . . . .	40,24,93,000	..	40,24,93,000
18	Open Line Works—Development Fund. . . . .	8,28,68,000	..	8,28,68,000
19	Capital Outlay on Vizagapatam Port . . . . .	16,30,000	..	16,30,000
20	Dividend payable to General Revenues . . . . .	33,37,51,000	..	33,37,51,000
GRAND TOTAL . . . . .		3,46,28,35,000		3,46,28,35,000

## STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114(1) of the Constitution of India to provide for the appropriation out of the Consolidated Fund of India of the monies required to meet the Grants made by Parliament for expenditure of the Central Government on Railways for 1951-52.

N. GOPALASWAMI.

NEW DELHI;

*The 5th March, 1951.*

### BILL\* No. 17 OF 1951

*A Bill to provide for the establishment of a Tariff Commission and to regulate its duties and functions.*

Be it enacted by Parliament as follows:—

#### CHAPTER I

##### PRELIMINARY

**1. Short title and commencement.**—(1) This Act may be called the Tariff Commission Act, 1951.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “Commission” means the Tariff Commission appointed under this Act;

(b) “chairman” means the chairman of the Tariff Commission;

(c) “member” means a member of the Tariff Commission and includes the chairman of the Commission;

(d) “prescribed” means prescribed by rules made under this Act;

(e) “regulations” means the regulations made by the Commission under section 25.

#### CHAPTER II

##### ESTABLISHMENT OF THE TARIFF COMMISSION

**3. Constitution of the Tariff Commission and appointment of chairman thereof.**—(1) For the purpose of this Act, there shall be established by the Central Government a Tariff Commission which shall consist of not less than three, but not exceeding four, members appointed by the Central Government, all of whom shall render whole-time service to the Commission:

Provided that the Central Government may, as often as may be necessary, appoint not more than two additional members on the Commission for such purpose, for such period and on such conditions as it thinks fit.

(2) One of the members appointed to render whole-time service to the Commission shall be nominated by the Central Government to be the chairman thereof.

\* The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Parliament the introduction and consideration of the Bill.

**4. Qualifications for being appointed as members of the Commission.**—The persons to be appointed as members of the Commission shall be men of ability and standing who have shown, capacity in dealing with problems relating to commerce or industry or in administration or who have special knowledge in any matter as renders them suitable for appointment on the Commission.

**5. Disqualifications for membership.**—(1) No person shall be qualified for appointment as, or for continuing to be, a member of the Commission, if he—

(a) is a member of Parliament or of any State Legislature; or

(b) has directly or indirectly any such financial or commercial interest in any industry or undertaking as is likely to affect him in the discharge of his duties as a member of the Commission:

Provided that where he is merely a shareholder in any industry or undertaking nothing contained in this clause shall render him subject to the disqualification specified herein, if he discloses and keeps disclosed to the Central Government the nature and extent of the shares held by him in any such industry or undertaking.

(2) Every member shall, whenever required by the Central Government so to do, furnish to it such information as it may require for the purpose of securing compliance with the provisions contained in clause (b) of sub-section (1).

**6. Conditions of service of members of the Commission.**—(1) Every whole-time member of the Commission shall hold office for a period of three years from the date of his appointment:

Provided that a member relinquishing his office on the expiry thereof shall be eligible for reappointment for a second period of three years.

(2) There shall be paid to the members of the Commission such salaries and allowances as may be determined by the Central Government:

Provided that such salaries and allowances shall not be varied to the disadvantage of a member after his appointment.

(3) A member of the Commission ceasing to hold office as such shall not hold any appointment in any private industry or undertaking for a period of three years from so ceasing to hold office, save with the consent in writing of the Central Government.

**7. Power of Central Government to remove members from office in certain cases.**—The Central Government may remove from office any member of the Commission, if, in the opinion of the Central Government, he—

(a) has become physically incapable of acting as such member;

(b) has so abused his position as to render his continuance in office detrimental to the public interest;

(c) has been adjudged an insolvent;

(d) has been convicted of an offence involving moral turpitude; or

(e) has incurred any of the disqualifications specified in sub-section (1) of section 5.

**8. Appointment of officers and servants of the Commission.**—Subject to such rules as may be made in this behalf, the Commission may for the purpose of enabling it to efficiently discharge its functions under this Act appoint such number of officers and servants as it may think fit and determine their conditions of service.

**9. Sittings of the Commission.**—(1) Subject to the regulations, the Commission may hold sittings in any part of India in such place or places as it may deem most convenient for the transaction of its business or proceedings and shall keep the minutes of its proceedings in such form as it may think fit.

(2) Sittings of the Commission shall be convened by the chairman and shall be open to the public unless the Commission in any particular case decides otherwise.

(3) The chairman shall preside at all sittings of the Commission at which he is present and in his absence from any such sitting the members present thereat shall elect one of the members to preside as chairman.

**10. Vacancy not to invalidate proceedings.**—No act or proceeding of the Commission shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Commission.

### CHAPTER III

#### FUNCTIONS OF THE COMMISSION

**11. Reference of matters relating to protection of industries generally to the Commission.**—(1) The Central Government may refer to the Commission for inquiry and report any matter requiring in its opinion—

(a) the grant of protection (whether by the grant of subsidies or the levy of protective duties or otherwise) for the encouragement of any primary or secondary industry in India (including any industry which has not started production but which is likely to do so if granted suitable protection);

(b) an increase or decrease in the duties of customs or other duties in relation to any industry for the protection thereof;

(c) action to be taken in relation to the dumping of goods in the market occasioned by excessive import, manufacture or otherwise;

(d) action to be taken on a complaint that an industry is taking undue advantage of the tariff protection granted to it particularly with reference to whether the protected industry is—

(i) charging unnecessarily high prices for its goods, or

(ii) acting or omitting to act in a manner which results in high prices being charged to consumers through limitation of quantity, deterioration in quality or inflation of cost of production and the like, or

(iii) acting in restraint of trade to the detriment of the public.

(2) Where in the opinion of the Central Government, it is expedient in the public interest that immediate action is required it may take action to impose, vary or abolish any protective duty or to grant, vary or abolish any subsidy without obtaining the report of the Commission, but where it does so the matter shall be referred to the Commission for inquiry and report as soon as may be after the action is taken.

**12. Reference to the Commission of additional matters arising out of protection.**—The Central Government may also refer to the Commission for inquiry and report any matter relating to—

(a) the effect of protective tariffs and subsidies on—

(i) the general level of prices in the country,

(ii) the cost of living of any specified class of people,

(iii) the different sectors of the country's economy;

(b) the effect of tariff concessions under trade or commercial agreements on the development of any specified industry;

(c) any anomalies that may result from the working of protective or revenue duties (as for example, relationship between the rates of duty on finish goods, partly finished goods and raw materials);

(d) the prices of particular commodities, whether protected or not.

**13. Power of Commission *suo motu* to make inquiries.**—The Commission may on its own motion inquire into and report to the Central Government on any of the matters referred to in clauses (b) and (c) of section 11 or in clauses (a), (b) and (c) of section 12.

**14. Principles to be taken into account in making any inquiry under section 11(1)(a).**—(1) In making a report in respect of any matter referred to it under clause (a) of sub-section (1) of section 11, the Commission shall among other matters have due regard to—

(a) the cost of production or manufacture in the principal growing, producing or manufacturing centres of India of the commodity produced by the industry claiming protection and the cost which should be taken to be representative of the primary or secondary industry concerned;

(b) the approximate cost of production or manufacture in the Principal growing, producing or manufacturing centres of foreign countries of the commodity which competes with the commodity produced by the industry claiming protection if the determination of such cost is necessary for the purpose of any case;

(c) the approximate cost of import of any such competing commodity as is specified in clause (b);

(d) the price which may be deemed to be the representative fair selling price for growers, producers or manufacturers in India in respect of the industry claiming protection;

(e) the quantities of the commodity required for consumption and the quantities thereof produced and imported into India.

(2) On the basis of its findings on the matters referred to in sub-section (1), the Commission shall assess, for the purpose of its report,—

(a) the relative advantages enjoyed by the industry;

(b) the nature and extent of foreign competition;

(c) the possibility of the industry developing sufficiently within a reasonable time to be able to carry on successfully without protection or subsidy;

(d) the likely effect of a protective tariff or other form of protection on the interests of the consumer or of industries using the commodity in question, as the case may be;

(e) the desirability or otherwise of protecting the industry in the public interest.

(3) In recommending the grant of protection to any industry, the Commission may specify the conditions which shall be fulfilled before and after the grant of protection, with particular reference to the following points, namely:—

(a) the scale of output;

(b) the quality of its products;

(c) the price charged for its products;

(d) the technological improvements required by the industry;

(e) the need for research in the process of manufacture;

(f) the training of officers, technicians and other persons employed in the industry; and

(g) any other matter in respect of which the Commission considers it necessary to specify conditions.

**15. Duties of the Commission.**—It shall be the duty of the Commission, at such intervals as may be prescribed,—

(a) to investigate into the manner in which tariff or subsidies in relation to any industry have been working, with particular reference to—

(i) the cost of production of the protected commodity;

(ii) the scale of output of the protected industry;

(iii) the quality of the protected commodity;

(iv) the prospects of future expansion of the protected industry;

(v) the relative competitive position of the industry and the factors entering into it; and

(vi) any other factor having a bearing on the usefulness of the industry to the country's economy;

(b) to investigate into any special conditions that may have been imposed by the Commission on a protected industry, with particular reference to—

(i) the extent to which and the manner in which the obligations have been discharged,

(ii) the further steps that would be necessary to implement them fully,

(iii) the difficulties, if any, in the way of the full discharge of such obligations,

and to make a report thereon to the Central Government.

**16. Action on Commission's report.**—(1) Upon receipt of a report made to it by the Commission, the Central Government may take such action as it considers fit in respect of any of the matters dealt with in the report.

(2) A copy of every report made to the Central Government shall be laid on the table of Parliament within a month of its submission to the Central Government, if Parliament is then in session or, if Parliament is not in session, within seven days of its reassembly.

#### CHAPTER IV

#### MISCELLANEOUS

**17. Reports and statements.**—(1) At the end of every financial year or such other period as may be prescribed, the Commission shall submit a report to the Central Government containing a detailed account of its activities during the year.

(2) The Central Government may also call for such reports, returns or statements from the Commission from time to time as it considers necessary.

**18. Appointment of assessors to help Commission in the discharge of its functions.**—The Central Government may, in consultation with the Commission, and for the purpose of helping it in inquiring into any matter before it, appoint one or more persons possessing special knowledge of any matter relevant to the inquiry to assist the Commission.

**19. Members of Commission to be public servants.**—All members and officers of the Commission shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

**20. Powers of the Commission.**—(1) For the purpose of conducting any inquiry under this Act, the Commission shall have all the powers of a civil court while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any office;
- (e) issuing commissions for the examination of witnesses.

(2) The Commission shall have power to require any person to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject-matter of any inquiry.

(3) The Commission or any officer specially authorised by the Commission may enter any building or place where it or he has reason to believe that any books of account or other documents relevant to the subject-matter of any inquiry before the Commission may be found and may seize any such books of account or documents or take extracts or copies therefrom.

(4) The Commission shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898), and any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 198, and 228 of the Indian Penal Code (Act XLV of 1860).

**21. Statements made by persons to the Commission.**—No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

- (a) is made in reply to a question which he is required by the Commission to answer, and
- (b) is relevant to the subject-matter of the inquiry.

**22. Restriction on disclosure of information.**—(1) No information relating to any industry being information which has been obtained by or on behalf of the Commission for the purpose of its functions under this Act shall, without the previous consent in writing of the owner for the time being of that industry, be disclosed otherwise than in connection with the execution or for the purpose of this Act.

(2) Nothing in the preceding sub-section shall apply to any disclosure of information made for the purpose of any legal proceeding pursuant to this Act or of any criminal proceedings which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report relating to any such proceeding.

(3) If any person discloses any information in contravention of this section, he shall be punishable on conviction with fine, which may extend to five hundred rupees or with imprisonment for a term which may extend to three months or with both.

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**23. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against any member, officer or servant of the Commission for anything which is in good faith done or intended to be done under this Act.

**24. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(a) the salaries and allowances payable to officers and servants of the Commission and the conditions subject to which they may be appointed;

(b) the intervals within which reports under section 15 may be made by the Commission;

(c) the form in which and the period within which reports under section 17 may be submitted to the Central Government.

**25. Power to make regulations.**—Subject to the provisions contained in this Act and in any rules made thereunder, the Commission may, with the previous consent of the Central Government, make regulations for the purpose of enabling it to discharge its functions under this Act, and, in particular, such regulations may provide for—

(a) the conduct of the proceedings of the Commission;

(b) the terms and conditions of service of officers and servants of the Commission;

(c) the delegation to one or more members of the Commission of such functions of the Commission as the Commission may specify.

#### STATEMENT OF OBJECTS AND REASONS

The object of the present Bill is to create a permanent statutory Tariff Commission for the examination of all cases of protection to industries as recommended by the Fiscal Commission. The functions to be entrusted to this body are indicated in the Bill. The Commission will be a quasi-judicial body. The functions of the Commission are recommendatory in character. It will be open to Government to take such action as it deems fit on reports submitted to it.

(2) The Commission will replace the Tariff Board which is a temporary body and whose life has been extended only up to the 2nd May, 1951.

HAREKRUSHNA MAHTAB.

NEW DELHI;

The 8th March, 1951.

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#### THE TARIFF COMMISSION BILL, 1951.

*Financial Memorandum.*

The Tariff Board came into existence in November, 1945 and sanction to its present extension exists up to the 2nd May, 1951. It is now proposed to introduce in the Parliament the Tariff Commission Bill with the object of replacing the Tariff Board by a permanent Statutory Tariff Commission. Under clause 8 of this Bill, the Tariff Commission shall consist of not less than three but not exceeding four members, appointed by the Central Government, all of whom shall render whole-time service to the Commission; provided that the Central Government may appoint not more than two additional Members on the Commission for such period and on such conditions as it thinks fit. Under clause 8

of the Bill, every whole-time Member of the Commission shall hold office for a period of three years from the date of his appointment. There shall be paid to the members of the Commission such salaries and allowances as may be determined by the Central Government.

2. Under clause 8 of the Bill, the Commission may appoint such number of officers and servants as it may think fit. Under clause 18 of the Bill, the Central Government may also appoint one or more assessors possessing special knowledge of any matter relevant to the Enquiry to assist the Commission.

8. Provision has been made under clause 24(2)(a) of the Bill for the framing of Rules by the Central Government *inter alia* for fixing the salaries and allowances payable to officers and servants of the Commission and the conditions subject to which they may be appointed. It is not possible at the present stage to indicate what expenditure will be incurred on the proposed Tariff Commission which will replace the temporary Tariff Board, but it is unlikely that there will be any increase in the expenditure immediately after the change. An idea of the expenditure of the Tariff Board will be had from the budget provision made for the purpose since 1949-50, as shown below:—

	Rs.
1949-50 . . . . .	4,78,700
1950-51 . . . . .	4,80,000
1951-52 . . . . .	5,68,600

Information regarding the officers and staff at present employed by the Tariff Board is given in the annexure to this Memorandum.

#### ANNEXURE TO THE FINANCIAL MEMORANDUM

<i>Gazetted</i>	<i>Pay or scale</i>
1 President . . . . .	Rs. 3,500 (Fixed)
1 Member . . . . .	Rs. 3,000 (Fixed)
1 Member . . . . .	Rs. 2,250 (Fixed)
1 Secretary . . . . .	Rs. 1,100—50—1,300—80—1,600—100—1,800.
1 Deputy Secretary . . . . .	Rs. 800—40—1,000—1,000—1,050—1,050—1,100—1,100—1,150.
1 Technical Adviser . . . . .	Ditto.
2 Assistant Secretaries . . . . .	Rs. 650—30—800.
2 Research Officers . . . . .	Rs. 350—25—500—30—800.
1 P. S. to President . . . . .	Rs. 300—20—400.
<i>Non-Gazetted</i>	
2 Superintendents . . . . .	Rs. 400—20—500.
4 Reporters . . . . .	Rs. 300—20—500.
5 Economic Assistants (Senior Grade).	Rs. 250—10—300—15—450—25/2—500.
8 Economic Assistants (Junior Grade).	Rs. 100—10—330.
1 Deputy Superintendent . . . . .	Rs. 250—15—400.
10 P. As. and Stenographers . . . . .	Rs. 80—5—120—EB—8—200—10/2—220.
1 Librarian . . . . .	Rs. 100—8—140—10—250.
1 Cashier . . . . .	Rs. 80—5—120—EB—8—200—10/2—220 plus S.P. Rs. 25.
10 Upper Division Clerks . . . . .	Rs. 80—5—120—EB—8—200—10/2—220.
26 Lower Division Clerks—Typists.	Rs. 55—3—85—EB—4—125—5—130
2 Comptists . . . . .	Ditto.
37 Class IV Servants . . . . .	

## BILL No. 18 OF 1951

*A Bill further to amend the Code of Civil Procedure, 1908.*

BE it enacted by Parliament as follows:—

**1. Short title and commencement.**—(1) This Act may be called the Code of Civil Procedure (Second Amendment) Act, 1951.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Amendment of Order V, rule 25, Act V of 1908.**—To rule 25 of Order V in the First Schedule to the Code of Civil Procedure, 1908, the following provisos shall be added, namely:—

“Provided that where any such defendant resides in Pakistan, the summons, together with a copy thereof, may be sent for service on the defendant, to any court in that country (not being the High Court) having jurisdiction in the place where the defendant, resides:

Provided further that where any such defendant is a public officer in Pakistan (not belonging to the Pakistan military, naval or air forces) or is a servant of a railway company or local authority in that country, the summons, together with a copy thereof, may be sent for service on the defendant, to such officer or authority in that country as the Central Government may, by notification in the Official Gazette, specify in this behalf.”

#### STATEMENT OF OBJECTS AND REASONS

Under the existing law, a summons issued against a defendant residing in Pakistan in respect of a suit filed against him in this country can only be served upon him by post. The Government of Pakistan have now agreed to arrange on a reciprocal basis, for the issue of appropriate notifications under the proviso to section 29 of the Code of Civil Procedure, 1908, as in force in Pakistan whereby the courts in Pakistan will be bound to serve summonses sent to them by courts in India as if they were summonses issued by courts in Pakistan. The Government of Pakistan have also agreed, on a reciprocal basis, that summonses issued by courts in India to persons who may be public servants in Pakistan should be routed through the Home Secretary of the Province in which the public servant may have been employed or through the Secretary, Ministry of Interior, in the case of public servants serving under the Central Government of Pakistan and served on the public servants concerned by the Heads of the Departments. The Government of Pakistan have already taken legislative action to implement the agreement. It is necessary, therefore, to amend rule 25 of Order V of the Code of Civil Procedure, 1908, so as to enable courts in India to transmit a summons to a defendant residing in Pakistan to the appropriate court in Pakistan,

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and where the defendant is a public servant in Pakistan, to route the summons through such officer or authority in Pakistan as the Central Government may, by notification in the Official Gazette, specify in this behalf. The Bill is intended to achieve this object.

B. R. AMBEDKAR.

NEW DELHI,

The 9th March, 1951.

#### ANNEXURE

EXTRACT FROM THE CODE OF CIVIL PROCEDURE, 1908 (ACT V OF 1908).

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#### THE FIRST SCHEDULE

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#### ORDER V

##### *Issue and Service of Summons*

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**25. Service where defendant resides out of the States and has no agent.**—Where the defendant resides out of the States and has no agent in the States empowered to accept service, the summons shall be addressed to the defendant at the place where he is residing and sent to him by post, if there is postal communication between such place and the place where the Court is situate.

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M. N. KAUL,

*Secretary.*